

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Bail Appl..No. 5959 of 2007()

CP.3/2007 of J.M.F.C.,KASARAGOD
CRIME NO.80/04 OF KASARAGOD POLICE STATION
.....

: PETITIONER/ACCUSED

AHAMMED SHAFI, S/O. PERAL MOHAMMED,
BALLEER HOUSE, ERIYAL, KUDULU P.O.,
KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY
THE SUB INSPECTOR OF POLICE, KASARAGOD POLICE
STATION, REP. BY THE PUBLIC PROSECUTOR,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A. No. 5959 OF 2007

Dated this the 3rd day of October, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Secs.452, 307 and 153A read with Sec.149 of the IPC. The alleged incident took place on 22/1/04. Final report has already been filed. Committal proceedings is pending before the learned Magistrate. The petitioner has not entered appearance so far. Consequently, a warrant of arrest issued by the learned Magistrate is chasing the petitioner.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful or deliberate. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by

the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior

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notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

**Sd/-
(R. BASANT, JUDGE)**

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P.S. to Judge